IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR
:: ORDER::

1. **S.B. CIVIL WRIT PETITION NO.2529/2001-PREM SHANKER SHARMA VS.STATE OF RAJ. & ANR**

2. **S.B. CIVIL WRIT PETITION NO.2372/2001-VED PRAKASH VS. STATE OF RAJASTHAN & ANR.**

UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER : 29.3.2005

PRESENT

HON'BLE MR. PRAKASH TATIA,J.

Mr. R.S.Saluja, for the petitioner.
Mr. L.R.Upadhayay, Dy.GA, for the respondents.

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Heard learned counsel for the parties.

The petitioner's case is that petitioner was appointed as class-IV employee on 10th August, 1987, but he was assigned the work of the LDC, which is evident from the various documents placed on record. Therefore, the petitioner is entitled for the regularization on the post of LDC or equivalent thereof and petitioner is also entitled for the salary, which is available for the cadre of LDC because the petitioner is discharging the duties and functions of the LDC. Learned counsel for the petitioner relied upon two judgments of the Division Bench of this court;

(i) State of Rajasthan Vs. Ram Karan decided on 13.9.2001 and (ii) D.B.Civil Special Appeal No.582/2002-Chaman Singh Vs. Judge, Labour Court & Anr. Decided on 18.8.2003.

Learned counsel for the respondent-State submits that the petitioner was though assigned the work of LDC for project in Census Department, but on completion of the same work, the order, which was passed for petitioner assigning the work of LDC came to its end. It is also submitted in the reply that petitioner at the most can claim pecuniary benefits as provided under the provisions of RSR for working for additional work.

I considered the submissions of learned counsel for the parties and perused the record. It is not in dispute that the petitioner was appointed on the post of Class-IV employee only in the year 1987. By the documents placed on record, this court cannot reach to the conclusion that petitioner was doing the duties of post equivalent to the post of LDC continuously for the entire period till petitioner preferred the writ petition. The petitioner's claim for regularization is also governed by the earlier decisions of this court including Division Bench Judgment delivered in the case of State of Rajasthan Vs. Ram Karan.

In view of the above, there are several disputed questions of

facts, which require investigation and that can be more done first by the employer itself and in case, the grievance of the petitioner still remains, he may avail the remedy available to him under the provisions of the ID Act.

Therefore, the writ petitions of the petitioners are disposed of with a direction to the respondents to decide the case of the petitioners for regularization in accordance with the judgment of this court delivered in the case of State of Rajasthan Vs. Ram Karan decided on 13.9.2001 and in case, the petitioners can be regularized, they may be granted the relief within a period of four months from the date of receipt of the certified copy of this order. So far as monitory claim is concerned, the State Government shall also decide the claim of the petitioner and in case, the petitioner is found entitled for any pecuniary benefits, which the respondents admitted in their reply by saying that "at the most the petitioner can claim for the pecuniary benefits as provided under the provisions of RSR for working of additional work.", then that benefit be given to the petitioner The petitioner shall be at liberty to approach the labour court after the decision of the State Government. The State Government shall communicate the decision to the petitioners also.

(Prakash Tatia), J.

c.p.goyal/-